

### REMARKS

The Office action dated February 12, 2007, and the references cited have been fully considered. Please consider the following remarks. Reconsideration and/or further prosecution of the application is respectfully requested. No new matter is added herein.

Claims 13, 33, 39, 42-45 and 49-51 stand rejected under 35 USC § 102(b) as being anticipated by David et al., US Patent 5,984,101. Applicants respectfully traverse all of these rejections as the MPEP and law is clear that for anticipation, the reference *must teach each and every aspect of the claimed invention* either explicitly or impliedly, and the burden is on the Office to present a *prima facie* case of anticipation. MPEP § 706.02. Each of the two pending independent claims that stand rejected recite the limitation of "an apparatus" comprising or performing the other recited limitations. David et al. teaches a distributed processing system with multiple apparatuses networked together, including a method for use in booting a network attached computer. David et al., col. 2, lines 23-24. The Office cites FIG. 3 for teaching an apparatus including server 17 and OMC 37. However, David et al. teaches that these are separate computers, such as in col. 3, 57-59 (new computers ... referred to as "OMC"). For at least this reason, the Office fails to present of *prima facie* case of David et al anticipating any claim; and Applicants further submit that for at least this same reason David et al. neither teaches nor suggests all of the limitations of any pending claim.

All remaining pending claims, including independent claims 13 and 52, stand rejected as be rendered obvious over a combination with David et al. and at least one other reference. These rejections rely on the rationale presented in the § 102 rejections. All four pending independent claims recite rejected recite the limitation of "an apparatus" comprising or performing the other recited limitations. The burden is on the Office Action to establish a *prima facie* case of obviousness, and obviousness under 35 USC § 103(a) requires "the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 706.02(j) (*citing In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991))(emphasis added). For at least the reason that as the Office has applied David et al. to the claims, it neither teaches nor suggests an apparatus

as recited in the claims. For at least these reasons, the Office action fails to contain a *prima facie* rejection of any pending claim; and Applicants further submit that for at least this same reason David et al. neither teaches nor suggests all of the limitations of any pending claim. Therefore, Applicants respectfully request that all claim rejections be withdrawn and all claims be allowed.

Moreover, Applicants assume that the Office complied with its duties under MPEP § 706 and 37 CFR 1.104(c)(2) and cited the best available references available. Therefore, Applicants respectfully submit that all claims are allowable over the best available references.


In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over all prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. Applicant requests any and all rejections and/or objections be withdrawn. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney, as Applicants are open to discussing, considering, and resolving issues.

Applicants request a two-month extension of time is required. Should a different extension of time be deemed appropriate, Applicants hereby petition for such deemed extension of time. Applicants further authorize the charging of Deposit Account No. 501430 for any fees that may be due in connection with this paper (e.g., claim fees, extension of time fees) as required in addition to the payment made herewith using Form PTO-2038.

Respectfully submitted,  
The Law Office of Kirk D. Williams

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By

  
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